

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

JASON WILLIAMS,

Plaintiff,

vs.

AT&T MOBILITY LLC,

Defendant.

Case No. 5:19-cv-00475-BO

**AT&T's UNOPPOSED MOTION TO SEAL
CERTAIN EXHIBITS INADVERTENTLY
PUBLICLY FILED**

COMES NOW Defendant AT&T Mobility LLC, ("AT&T") through its undersigned counsel, pursuant Rule 26(c) of the Federal Rules of Civil Procedure and Local Rule 79.2, hereby respectfully requests that the Court enter an order sealing documents listed and described below and states as follows:

1. On or about June 16, 2020, this Court entered the Joint Stipulated Protective Order (the "Protective Order") in this matter. (ECF Doc. 47.)
2. According to the Protective Order "All provisions of this Protective Order shall continue to be binding after the conclusion of this action" and "the court shall retain jurisdiction of this matter for the purpose of enforcing this Protective Order." (*Id. at* ¶ 14.)
3. On May 3, 2022, counsel for Plaintiff submitted materials containing AT&T Confidential Information in support of Plaintiff's opposition to Defendant AT&T's Motion for Summary Judgment or Partial Summary Judgment in the Alternative and AT&T's Motions In Limine. (ECF Doc. 143.)
4. Confidential Materials submitted by Plaintiff in the Appendix to the Declaration of Christopher N. LaVigne in Support of Plaintiff Jason Williams' Opposition to AT&T's Motion for Summary Judgment and Motions In Limine (ECF 143), included the following:

| Exhibit No. | Description |
|--------------------|---|
| 1 | Copy of AT&T's account notes associated with Mr. Williams' phone number, produced by AT&T (ATT-WIL-00624-690) |
| 4 | Excerpts of Deposition of AT&T employee and 30(b)(6) witness Ray Hill, taken on November 17, 2021 |
| 28 | Copy of an internal AT&T SIM swap security document entitled "Unauthorized SIM Swaps" (ATT-WIL-03915-17) |

5. Under paragraph 4 of the Protective Order, the Parties agreed that, “[A]ny document or materials designated "Confidential" under this order and any information contained in or derived from any such materials may not be disclosed other than in accordance with [the Protective Order].(ECF Doc. 47.) Confidential materials under the Protective Order means that the materials contain “information that is: confidential; proprietary; not known to the general public; a trade secret or other confidential research, development, or commercial information; personal financial information protected by law or private medical records of a consumer other than plaintiff.” (*Id. at* ¶ 5.) Plaintiff inadvertently and unintentionally did not submit these documents conditionally under seal. Plaintiff’s counsel filed these particular documents, along with voluminous other documents, in the early hours of May 3, 2022, on the day after his Opposition was originally due, separately from his Opposition Brief and Declaration filed on May 2, 2022. See ECF 140-145 (filed May 3, 2023). This separate and delayed filing caused AT&T’s counsel to miss seeing that these documents had been publicly filed in the case docket until recently.

6. Prior to Plaintiff’s filing, AT&T had submitted to the Court its Motion to Seal Materials Filed in Support of Motion for Summary Judgment. (ECF Doc. 127.) AT&T submitted to the Court that the reasons for sealing such AT&T materials were that such materials discuss

AT&T's efforts to prevent unauthorized SIM swap activity, including AT&T's specific technology, security practices, policies and procedures and the release of such information would harm AT&T's competitive standing, and threaten the security of AT&T's wireless network. The need to protect that information from public disclosure overcomes the public's right of access to judicial records. The same considerations warrant sealing the related AT&T materials marked CONFIDENTIAL pursuant to the protective order that were inadvertently submitted unsealed by Plaintiff. In addition, the AT&T account notes filed by Plaintiff (Exhibit 1 listed above in the table) contain certain personal information related to Plaintiff Jason Williams.

7. Plaintiff, through counsel, consents to this Motion to Seal and does not oppose it.

WHEREFORE, AT&T respectfully requests the Court enter relief as follows:

1. That the Court enter an order sealing the documents listed and described above at ECF 143;
and
2. That the Court grant such other and further relief as the Court deems just and proper.

This 8th day of November, 2023.

/s/ Joseph S. Dowdy

Joseph S. Dowdy (N.C. State Bar No. 31941)
KILPATRICK TOWNSEND & STOCKTON LLP
4208 Six Forks Road, Suite 1400
Raleigh, NC 27609
Telephone: (919) 420-1700
Facsimile: (919) 510-6120
Email: jdowdy@kilpatricktownsend.com

Nancy L. Stagg (CA State Bar No. 157034)
KILPATRICK TOWNSEND & STOCKTON LLP
12255 El Camino Real, Suite 250
San Diego, CA 92130
Telephone: (858) 350-6156
Facsimile: (858) 350-6111
Email: nstagg@kilpatricktownsend.com

Mark Henkle (N.C. State Bar No. 49265)
KILPATRICK TOWNSEND & STOCKTON LLP
1001 West 4th Street
Winston-Salem, NC 27101
Telephone: (336) 607-7300
Facsimile: (336) 607-7500
Email: mhenkle@kilpatricktownsend.com

CERTIFICATE OF SERVICE

I hereby certify that on date set out below, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

WITHERS BERGMAN LLP
Joseph Gallo
Joseph.gallo@withersworldwide.com
Christopher LaVigne
christopher.lavigne@withersworldwide.com
Martin J. Auerbach
Martin.auerbach@withersworldwide.com
430 Park Avenue, 10th Floor
New York, New York 10022-3505
Counsel for Mr. Williams Jason Williams

BLUE, LLP
Dhamian Blue
dab@blueellp.com
205 Fayetteville Street
Suite 300
Raleigh, NC 27601
Rule 83.1(d) Local Counsel for Plaintiff

This 8th day of November, 2023.

/s/ Joseph S. Dowdy
Joseph S. Dowdy (N.C. State Bar No. 31941)
KILPATRICK TOWNSEND & STOCKTON LLP
4208 Six Forks Road, Suite 1400
Raleigh, NC 27609
Telephone: (919) 420-1700
Facsimile: (919) 510-6120
Email: jdowdy@kilpatricktownsend.com

Nancy L. Stagg (CA State Bar No. 157034)
KILPATRICK TOWNSEND & STOCKTON LLP
12255 El Camino Real, Suite 250
San Diego, CA 92130
Telephone: (858) 350-6156
Facsimile: (858) 350-6111
Email: nstagg@kilpatricktownsend.com

Mark Henkle (N.C. State Bar No. 49265)
KILPATRICK TOWNSEND & STOCKTON LLP
1001 West 4th Street
Winston-Salem, NC 27101
Telephone: (336) 607-7300
Facsimile: (336) 607-7500
Email: mhenkle@kilpatricktownsend.com